



---

## STAFF REVIEW AND RECOMMENDATION

Variance Case #: V2013-44 Legistar #: 20131399

Board of Zoning Appeals Hearing: Monday, December 16, 2013 – 6:00 p.m.

Property Owner: Samuel E. Null  
5205 Cross Ridge Circle  
Woodstock, GA 30188

Address: 733 Sky view Drive

Land Lot: 11420 District: 16 Parcel: 0390

Council Ward: 5 Existing Zoning: R-4 (Single Family Residential 4 units/acre)

**Special Exception / Special Use / Variance(s) Requested:**

1. Variance to allow an accessory structure to be located in the front yard. [§708.04 (F.1)]
2. Variance to allow an accessory structure to be located 1 foot from the front property line. [§708.04 (F.1)]

### Statement of Fact

As per section 720.03 of the Comprehensive Development Code of Marietta, the Board of Zoning Appeals may alter or modify the application of any such provision in the Development Code because of unnecessary hardship if doing so shall be in accordance with the general purpose and intent of these regulations, or amendments thereto, and only in the event the board determines that by such alteration or modification unnecessary hardship may be avoided and the public health, safety, morals and general welfare is properly secured and protected. In granting any variance the board of zoning appeals shall designate such conditions in connection therewith as will, in its opinion, secure substantially the objectives of these regulations and may designate conditions to be performed or met by the user or property owner, out of regard for the public health, safety, comfort, convenience, and general welfare of the community, including safeguards for, with respect to light, air, areas of occupancy, density of population and conformity to any master plan guiding the future development of the city. The development costs of the applicant as they pertain to the strict compliance with a regulation may not be the primary reason for granting a variance.

**Criteria:**

1. Exceptional or extraordinary circumstances or conditions *are/are not* applicable to the development of the site that do not apply generally to sites in the same zoning district.
2. Granting the application *is/is not* necessary for the preservation and enjoyment of a substantial property right of the applicant, and to prevent unreasonable property loss or unnecessary hardship.
3. Granting the application *will/will not* be detrimental or injurious to property or improvements in the vicinity of the development site, or to the public health, safety, or general welfare.

**PICTURES**



**733 Skyview Drive**



**Additional curb cut at 733 Skyview Drive**



## PICTURES



**Looking east - view of carport at 733 Skyview Drive**

### **Recommended Action:**

**Denial.** The applicant, Samuel E. Null, is requesting variances for his rental property located at 733 Skyview Drive that is zoned R-4 (Single Family Residential – 4 units/acre). All other surrounding properties are also zoned R-4 and contain single family residences. The variances that are being requested to allow Mr. Null to keep a metal canopy structure that was erected approximately ten (10) years ago.

The carport was observed by a Code Enforcement Officer in August 2013 during a routine neighborhood inspection. Mr. Null was told of various options available to him to correct the situation, and in November 2013, Mr. Null applied for the variance requests. He has also provided a letter stating that the carport purchased by his mother and erected on the property at some time between 2003 and 2005. No permit was obtained for the carport, which is located one (1) to two (2) feet from the public right of way along Skyview Drive. Mr. Null has pointed to the topography of the property and the cost to move the driveway as reasons for maintaining the carport in its present location. However, pictures of the property clearly show the original driveway that is located to the west of the current driveway. In addition, while there are several other carport structures in the area, most are located to the side of the house which they serve, and none are located as close to the street as this one.

The Zoning Ordinance prohibits the placement of these structures in the front yard; and the minimum front yard setback in the R-4 zoning district is twenty-five (25) feet of a property line; so these variances would be necessary in order to allow the awning to remain as it is currently placed.

The Board of Zoning Appeals has taken action on the following similar variance requests for the placement of a metal awning structures:

- 1) 1214 Aleamo Drive (V2013-26) – granted variance requests to allow a metal awning in the front yard and less than 10 feet from the side property line. This variance was approved with the stipulation that the applicant would remove the carport if he relocated, sold, rented or leased his property, or if he sold his landscaping business.
- 2) 814 Delta Circle (V2013-19) – denied variance request to maintain metal and canvas structure in the side yard.
- 3) 53 Maple Avenue (V2013-02) – granted variance request to reduce the side yard setback from 10' to 2.3' to allow construction of a 2 car carport, which had been designed by an architect to match the house.
- 4) 1284 Banberry Drive (V2007-39) – denied variance request for a metal awning structure located 2' from the property line.

The topography of the property certainly hinders the possible locations for a carport on this property, but there are other locations that are safer and could provide a greater setback from the right of way. The current location of the carport – less than two feet from the street right of way – is not considered safe, and therefore, ***Staff recommends denial of the requested variances.***